

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 93-0941 CS
Controlled Substance Excise Tax
For The Tax Period: 1993**

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ISSUE

I. **Controlled Substance Excise Tax**: Possession

Authority: IC 6-7-3-5

The taxpayer protests assessment of controlled substance excise tax.

STATEMENT OF FACTS

Taxpayer's listed counsel was contacted throughout 1998 to schedule a hearing. The Department never received a response from counsel. Subsequent attempts to contact the taxpayer were made. A hearing was scheduled for taxpayer to address his protest. Taxpayer failed to appear. Using the best information available, efforts were made to contact taxpayer and taxpayer failed to respond.

I. **Controlled Substance Excise Tax**: Possession

DISCUSSION

Taxpayer was arrested for possession of marijuana on September 23, 1993. The Department issued the taxpayer a Controlled Substance Excise Tax (CSET) assessment on October 6, 1993. Taxpayer filed a protest of the CSET assessment via counsel on October 29, 1993. Indiana Code Section 6-7-3-5 states:

The controlled substance excise tax is imposed on controlled substances that are:

- (1) delivered,
- (2) possessed; or
- (3) manufactured;

in Indiana in violation of IC 35-48-4 or 21 U.S.C. 841 through 21 U.S.C. 852.

Taxpayer must prove by a preponderance of the evidence that he neither possessed, nor delivered, nor manufactured the marijuana upon which controlled substance excise tax was imposed. Without evidence to rebut the presumption that he is liable for the tax, based on the information in the file, the Department finds that taxpayer is responsible for the CSET assessment.

FINDING

The taxpayer's protest is denied.